

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 635 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT TOURISM CORP LTD & ORS

Versus

MR J K ZALA

Appearance:

M/S TRIVEDI & GUPTA for Petitioners

MR RAJESH OZA for Respondent No. 1

CORAM : MR.JUSTICE S.D.SHAH

Date of decision:25-28/97

ORAL JUDGEMENT

1. The present CRA under section 115 of C.P.Code is directed against the judgment and order of the Extra Assistant Judge, Baroda in Misc.Civil Appeal o.91/94, dated May 17,, 1994 whereby he allowed the appeal of the

respondent-plaintiff and directed the Gujarat State Tourism Development Corporation to complete the departmental enquiry as directed by the trial court, and further stayed the implementation of order of suspension and further directed the Gujarat State Tourism Development Corporation to permit J.K.Zala to perform his duties forthwith by posting him anywhere on deputation.

2. It appears that the respondent-plaintiff-J.K.Zala instituted Reg.C.S.No.1236/93 in the court of Civil Judge(SD) Baroda against the Gujarat State Tourism Development Corporation and others wherein he prayed for mandatory injunction directing the corporation, its officers, agents and servants to permit him to discharge his duties and to suspend the order which was passed on 6th July, 1993 whereby he was suspended from the post of Regional Manager and Chief Marketing Manager pending departmental enquiry. The trial court did not grant such mandatory injunction which in substance would have amounted to specific performance of agreement of service and that order aggrieved Mr.Jhala who preferred the Misc.Civil Appeal and was successful in getting the order which is reproduced hereinabove.

3. While admitting the CRA some conditional order was passed and it was directed that the Gujarat State Tourism Development Corporation shall start departmental enquiry and shall hold the same day to day from 1.1.1994 and that the enquiry should be completed within the stipulated time.

4. M/s Trivedi & Gupta on one hand and Mr.Rajesh Ojha for respondent-plaintiff on the other hand informed the court that the enquiry which was directed to be completed against Shri Jhala-original plaintiff is already completed and vide order, dated 1st May, 1995 an order dismissing him from service is passed by the competent authority. According to Mr.Ojha Mr.Jhala the original plaintiff has challenged the said order by preferring appeal to the appellate authority, and in such appeal, as per his information, J.K.Jhala has succeeded. On making enquiry from Mr.Kamal Trivedi, in his turn made enquiries from Gujarat State Tourism Development Corporation and its Managing Director has informed the court today that no appeal worth its name is preferred by Mr.Jhala to any authority nor is any summons of said appeal served on Gujarat State Tourism Development Corporation nor is such appeal allowed by any appellate authority. This being the state of affairs as on date, the respondent-plaintiff stands dismissed from service pursuant to an order of dismissal passed after following

the procedure established by law and after providing him opportunity to defend himself. No competent court has till date passed any order setting aside such order of dismissal passed by the competent authority and in that view of the matter this CRA is allowed and the judgment and order of the lower appellate court dated 17th May, 1994 in Misc.Civil Appeal No.91/94 is quashed and set aside.

5. In the result, the CRA succeeds. Rule is made absolute. Interim relief granted by the court stands vacated. No costs.

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